


AUG 08 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK
BY: 
DEPUTY CLERK

DARRYL EVAN WHIDBY,

Petitioner,

v.

AYLOR,

Respondent.

)
) Civil Action No. 7:12-cv-00353
)

) **FINAL ORDER**
)

) By: Samuel G. Wilson
)


) United States District Judge
)

In accordance with the Memorandum Opinion entered this day, it is hereby **ORDERED** and **ADJUDGED** that Whidby's 28 U.S.C. § 2254 petition shall be and hereby is **DISMISSED without prejudice**, Whidby's motion to proceed *in forma pauperis* (Docket No. 2) is **DENIED as moot**, and this action shall be **STRICKEN** from the active docket of the court.

Further, finding that Whidby has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The Clerk is directed to send a certified copy of this Order and accompanying Memorandum Opinion to the petitioner.

ENTER: This 8th day of August, 2012.



United States District Judge